

Appl. No. 10/804,381
Atty. Docket No. 7892C
Amdt. dated 2/3/05
Reply to Office Action of 11/3/04
Customer No. 27752

REMARKS

Claim Status

Claims 1 - 20 are pending in the present application. No additional claims fee is believed due.

Rejection Under 35 USC §102 Over US 5,614,178 (Bloom et al.)

Claims 1-13 have been rejected under 35 USC §102(b) as being unpatentable over US 5,614,178 (hereinafter Bloom). This rejection is traversed for the following reason.

Claim 1 and dependent claims 2 – 13 recite as an element a skin care active, the “skin care active comprising chitosan”.

The Examiner has not stated where in Bloom disclosure of a skin care active comprising chitosan is found.

Applicants respectfully submit that because Bloom fails to disclose, teach or suggest every claim element of Claim 1, Bloom cannot anticipate Claim 1.

Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 USC 102(b) of Claims 1 – 13.

Rejection Under 35 USC §102 Over US 5,650,157 (Bockow)

Claims 1 – 7 and 10 – 12. have been rejected under 35 USC §102(b) as being unpatentable over US 5,614,178 (hereinafter Bockow). This rejection is traversed for the following reason.

Claim 1 and dependent claims 2 – 7 and 10 – 12 recite as an element a skin care active, the “skin care active comprising chitosan”.

The Examiner has not stated where in Bockow disclosure of a skin care active comprising chitosan is found.

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Applicants respectfully submit that because Bockow fails to disclose, teach or suggest every claim element of Claim 1, Bockow cannot anticipate Claim 1.

Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 USC 102(b) of Claims 1 – 7 and 10 – 12.

Rejection Under 35 USC §103(a) Over US 5,614,178 (Bloom et al.) alone, or Bloom in view of EP 297 828 (Charkoudian et al.)

Claims 14 – 20 have been rejected under 35 USC §103(a) as being unpatentable over US 5,614,178 (hereinafter Bloom) alone, or Bloom in view of EP 297 828 (hereinafter Charkoudian). This rejection is traversed for two reasons. First, Bloom does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations of Claims, each of which recite as an element a skin care active, the “skin care active comprising chitosan”. The addition of Charkoudian does not remedy the deficiency of Bloom.

Bloom alone does not teach or suggest a skin care active, the “skin care active comprising chitosan” and, therefore, does not establish a *prima facie* case of obviousness (see MPEP 2143.03). Charkoudian does not teach, suggest, or disclose a “skin care active comprising chitosan”. Therefore, there can be no motivation to combine or modify the cited references to achieve the claimed invention. The cited references make no mention of the missing claimed element, so there can be no prompting of the skilled person to combine. Further, even if there were a motivation to combine, the combination would not achieve the invention.

Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 USC 103(a) of Claims 14 – 20.

Double Patenting

The Applicant agrees to timely file a terminal disclaimer upon notification of allowable subject matter.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention from the applied references. In view of the foregoing, reconsideration of this application, and allowance of Claims 1 – 20 is respectfully requested.

Respectfully submitted,

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By


Signature

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Customer No. 27752

(Amendment-Response to Office Action.doc)

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